

REMARKS

Claims 1-4 and 7-9 are pending in the application.

Claims 1-4 and 7-9 have been rejected.

No amendments have been made, and reconsideration of the Claims is respectfully requested.

I. **INFORMATION DISCLOSURE STATEMENT FILED FEBRUARY 29, 2000**

Upon further review of the prosecution papers in this Application, it appears that Applicant has not received the form PTO-1449 (as initialed by the Examiner) listing the references cited in Applicant's Information Disclosure Statement filed with the USPTO on February 29, 2000. Accordingly, Applicant requests that the Examiner provide a copy of the initialed form indicating consideration of the references when issuing the next action on this application, or if the Examiner has not yet considered the references, please consider the references during examination of the Application.

Applicant further notes that one of the references identified in the IDS filed on February 29, 2000 was inadvertently listed in the form as "WO 97/314492A" when the correct number should have been "WO 97/31492A." Applicant respectfully submits that a copy of the reference (showing the correct number) was included when the IDS was submitted, and also that the correct reference number was identified in the International Search Report issued in PCT application number PCT/CA99/01004, of which a copy was believed to have been also submitted in the IDS filed on February 29, 2000. Therefore, Applicant does not believe that a

new information disclosure statement is necessary, as Applicant submitted a copy of the reference, but simply inadvertently identified the reference on the PTO-1449 form. If this is incorrect, the Applicant would request that the Examiner identify that such requirement exists in the next office action.

II. REJECTION UNDER 35 U.S.C. § 103

Claims 1-4 and 7-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Christie IV, et al. (US 6,324,265). The rejection is respectfully traversed.

The main reference that forms the basis of the 103(a) rejection is United States Patent No. 6,324,265 to Christie, IV.

Section 103(c) provides that:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Title 35, United States Code, § 103(c). See also, MPEP § 2146.

The present application is owned by Nortel Networks Limited, as evidenced by documents recorded at Reel 010125, Frame 0469 (assignment from inventor to Northern Telecom Limited) and Reel 010567, Frame 0001 (name change document changing name from Northern Telecom Limited to Nortel Networks Corporation) and Reel 011195, Frame 0706 (name change document changing name from Nortel Networks Corporation to Nortel Networks

Limited). The cited reference, US 6,324,265, is also owned by Nortel Networks Limited. Therefore, the present application and the cited reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.

Accordingly, the Christie, IV reference is unavailable as prior art under section 103(a) and the Office Action fails to establish a prima facie case of obviousness.¹ Applicant respectfully requests withdrawal of the § 103(a) rejections of Claims 1-4 and 7-9.

Accordingly, the Applicant respectfully requests withdrawal of the § 103(a) rejection of Claims 1-4 and 7-9.

III. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

¹ This continued prosecution application (CPA) was filed on November 26, 2002. As such, this application is subject to the provisions of 35 U.S.C. 103(c).

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If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at rmccutcheon@davismunck.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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